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REMARKS

Turning to paragraph 1 of the Office Action mailed September 9, 2004, the Examiner has made a restriction requirement requiring Applicants to elect one of the following three groups of claims: I – claims 1-53 and 64, drawn to controlling a transition state (on/off) of an exterior light of a vehicle based on a light source image, classified in class 382, subclass 104; II – claims 54-57, drawn to an image preprocessing method for processing a pixel based on a selected pixel from one of multiple images, classified in class 382, subclass 274; and III – claims 58-63, drawn to controlling a transition rate (time delay) of an exterior light of a vehicle based on a light source image, classified in class 382, subclass 100.

Applicants respectfully elect, with traverse, group I (claims 1-53 and 64).

Applicants respectfully submit that claims 1-64, at least with regard to dependent claims within the groups identified by the Examiner, are all directed to an automatic vehicle exterior light control configured to determine an exterior light control state. The Applicants feel that it is a mischaracterization of the claim set to read out these limitations.

Applicants further submit that the requirement is otherwise improper and should be withdrawn. MPEP §806.05 sets forth the requirements for making a proper restriction based on related inventions.

Turning to paragraph 2 of the Office Action, the Examiner has specifically relied upon MPEP §806.05(d) as providing a valid basis for restriction. MPEP §806.05(c)

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provides a specific example that Applicants feel is pertinent when the pending claims are read with regard to the above mentioned common features:

To support a requirement for restriction, both **two way distinctness** and reasons for insisting on restriction are necessary, i.e. separate classification, status, or field of search. See MPEP §808.02.

II. SUBCOMBINATION ESSENTIAL TO COMBINATION

AB_{sp}/B_{sp} No Restriction

If there is no evidence that combination AB_{sp} is patentable without the details of B_{sp}, restriction should not be required. Where the relationship between the claims is such that the separately claimed subcombination B_{sp} constitutes the essential distinguishing feature of the combination AB_{sp} as claimed, the inventions are not distinct and a requirement for restriction must not be made, even though the subcombination has separate utility.

In light of the above, the Applicants request that the Examiner reconsider the restriction requirement and regroup claims 1-64 and proceed to examination on the merits. Secondly, the Applicants would request that the Examiner consider regrouping of claims 1-57 and 64. Claims 1-57 and 64 have a common feature in addition to those mentioned above in that all claims recite analyzing an image or at least a pixel of an image. The Applicants request, alternatively, that the Examiner consider regrouping claims 1-53 and 58-64. Claims 1-53 and 58-64 have an additional common feature in that all claims recite a probability enhancing features such as a time delay or confidence limitation.

Therefore, the Applicants respectfully submit that the pending claims do not define related inventions in the meaning of MPEP §806.05. All of the pending claims

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recite open claim language due to the presence of the transitional phrase "comprising," and thus the components of the structure shown and described in the applications do not constitute **two way distinctness**. One would not have to be implemented to the exclusion of the other.

For the reasons stated above, Applicant submits that the requirement for election of related inventions as stated in the Office Action is improper and should be withdrawn. The Applicant, therefore, requests that the Examiner withdraw the requirement for election of related inventions and proceed to examine claims 1-64. Please contact the undersigned should there be any questions.

Respectfully submitted,

JOSEPH S. STAM ET AL.

By: Gentex Corporation

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Date

James E. Shultz Jr.
James E. Shultz Jr.
Registration No. 50,511
600 N. Centennial Street
Zeeland, Michigan 49464
616/772-1800